

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 MICHELLE DIANE JOHNSTON,

11 Plaintiff,

12 v.

13 NANCY A. BERRYHILL, Deputy  
14 Commissioner of Social Security for  
Operations,<sup>1</sup>

15 Defendant.  
16

CASE NO. C17-1359 RSM

ORDER ADOPTING REPORT AND  
RECOMMENDATION

17 This matter comes before the Court on the Report and Recommendation of Judge J. Richard  
18 Creatura (Dkt. #14) and the Objections filed by the parties (Dkts. #15 and #16). Defendant raises  
19 arguments previously made in briefing and ignores the full basis for Judge Creatura's ruling.  
20 Nothing contained in the Objections of either party causes the Court to question the Report and  
21

22  
23 <sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to  
24 Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill is substituted for Acting  
Commissioner Carolyn W. Colvin as the defendant in this suit, pursuant to the last sentence of  
section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 Recommendation, which set forth the proper legal standards, analyzed the issues that were  
2 dispositive, and came to a proper conclusion in this case.

3 The Court, having reviewed the Report and Recommendation of Judge J. Richard Creatura,  
4 United States Magistrate Judge, the Objections of the parties, and the remainder of the record, does  
5 hereby find and ORDER:

6 (1) The Court adopts the Report and Recommendation.

7 (2) The matter is **REVERSED** and **REMANDED** pursuant to sentence four of 42  
8 U.S.C. § 405(g) to the Commissioner for further consideration.

9 (3) **JUDGMENT** is for plaintiff and the case should be closed.

10 (4) The Clerk is directed to send copies of this Order to counsel of record.

11 Dated this 4<sup>th</sup> day of January 2019.

12  
13 

14 RICARDO S. MARTINEZ  
15 CHIEF UNITED STATES DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24